

EXHIBIT 2

MORRISON FOERSTER

425 MARKET STREET
SAN FRANCISCO
CALIFORNIA 94105-2482

TELEPHONE: 415.268.7000
FACSIMILE: 415.268.7522

WWW.MOFO.COM

MORRISON FOERSTER LLP

AUSTIN, BEIJING, BERLIN, BOSTON, BRUSSELS,
DENVER, HONG KONG, LONDON, LOS ANGELES,
MIAMI,
NEW YORK, PALO ALTO, SAN DIEGO,
SAN FRANCISCO, SHANGHAI, SINGAPORE,

February 29, 2024

Writer's Direct Contact
+1 (415) 268-6066
JGratz@mof.com

Ian Crosby
SUSMAN GODFREY L.L.P.
401 Union Street, Suite 3000
Seattle, WA 98101
icrosby@susmangodfrey.com

Davida Brook
Ellie Dupler
SUSMAN GODFREY L.L.P.
1900 Ave of the Stars, Suite 1400
Los Angeles, CA 90067
dbrook@susmangodfrey.com
edupler@susmangodfrey.com

Elisha Barron
Tamar Lusztig
SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
ebarron@susmangodfrey.com
tlusztig@susmangodfrey.com

Steven Lieberman
Jennifer B. Maisel
Kristen J. Logan
ROTHWELL, FIGG, ERNST &
MANBECK, P.C.
901 New York Avenue, N.W., Ste 900 East
Washington, DC 20001
slieberman@rothwellfigg.com
jmaisel@rothwellfigg.com
klogan@rothwellfigg.com

Re: The New York Times Company v. Microsoft Corporation et al.
Case No. 1:23-cv-11195

Dear Counsel:

We are in receipt of your letter of January 23, 2024 relating to OpenAI's preservation obligations. OpenAI has taken and will continue to take reasonable measures to preserve all potentially relevant evidence from within the relevant time period.

OpenAI objects to and does not waive any objections to the extent your letter seeks to impose obligations beyond those of the Federal Rules. For example, with regards to the fourth and fifth categories of your letter, OpenAI is retaining input and output data from ChatGPT unless users have affirmatively turned off chat history, deleted their past conversations, or deleted their account, in which case new conversations are retained for 30 days, as stated on OpenAI's website. *See, e.g.,* <https://openai.com/blog/new-ways-to->

MORRISON FÖERSTER

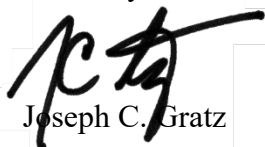
February 29, 2024

Page 2

[manage-your-data-in-chatgpt](#) and <https://help.openai.com/en/articles/6378407-how-to-delete-your-account>. Enterprise and API versions of ChatGPT have separate retention policies depending on the customer. *See, e.g.,* <https://openai.com/enterprise-privacy>. Because of the significant privacy and contractual concerns, the lack of relevance, and the fact that the amount of ChatGPT input and output data generated by users is enormous and continues to grow significantly, it would be inappropriate, overly burdensome, not proportional, and not feasible to place all ChatGPT inputs and output on indefinite retention.

Please note that by agreeing to retain information in whole or in part, OpenAI is not representing that the information and/or documents exist or, if they do, that they are relevant or will be produced. Nor does OpenAI waive any objections to Plaintiffs' forthcoming discovery requests related to this information.

Sincerely,



Joseph C. Gratz